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January 20, 2021

The Honorable William C. Smith, Jr.  
Judicial Proceedings Committee  
Miller Senate Office Building, 2 East  
Annapolis, Maryland 21401

Re: SUPPORT FOR SB0250 Repeal of Spousal Defense

Chairman and Members of the Committee:

According to Criminal Law §3–318 “a person may not be prosecuted under §3-303, §3-304, §3-30 or §3-308 of this subtitle for a crime against a victim who was the person’s legal spouse at the time of the alleged rape or sexual offense.” Your legal relationship to someone else should not give you permission to rape them or alter the criteria for defining rape or sexual offense as a crime. Secular Maryland supports repealing these marital rape and sexual offense prosecution exemptions from Maryland law.

17th-century British common law declared that when the wife signed the marriage contract she automatically conferred unqualified consent forever thereafter to the husband having sex with her. Individuals have self-agency, it is a fiction that everyone so consents continuously and forever in advance from the first day of marriage. Some people cite 1 Corinthians 7:3–5 to defend the existing law. False justifications and the Bible can be convenient anchors for unjust law. All fifty states originally followed this legal tradition and explicitly rejected marital rape as a crime. Today those state laws are mostly gone and either spouse can request a divorce if their partner persists in refusing to consent to sex. It is time for Maryland to also repeal this law so that the law as written acknowledges that respectful mutual consent is a reasonable and proper secular legal requirement both within and outside of marriage.